

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT, AT NASHVILLE

STATE OF TENNESSEE, *ex rel.*
ROBERT E. COOPER, JR.,
ATTORNEY GENERAL and
REPORTER,

Petitioner,

v.

EXPRESS SCRIPTS, INC.,
a Delaware corporation,

Respondent.

No. CSX 1690

AGREED FINAL ORDER

This cause came to be heard on the State of Tennessee's Petition and the parties' Assurance of Voluntary Compliance, and the Court is of the opinion that the Assurance of Voluntary Compliance should be approved. It is therefore ORDERED, ADJUDGED, and DECREED as follows:

1. The Assurance of Voluntary Compliance annexed hereto as Exhibit A and incorporated herein by reference is hereby made a part of this Agreed Final Order ("Order"), and is approved;
2. Pursuant to Tenn. Code Ann. § 47-18-107(c), Respondent shall comply with the terms of the Assurance of Voluntary Compliance unless rescinded in writing by the parties or modified as provided in the Assurance and approved by this Court for good cause shown;
3. Jurisdiction of this Court over the subject matter herein and over the person of the Respondent for the purposes of entering into and enforcing this Order and the Assurance is

admitted. Jurisdiction is retained by this Court for the purpose of enabling the State to apply such further orders and directions as may be necessary or appropriate for the construction, modification or execution of this Order and Assurance, including enforcement of compliance therewith and assessment of penalties for violation(s) thereof. Pursuant to Tenn. Code Ann. § 47-18-107, venue as to all matters between the parties relating hereto or arising out of this Order and Assurance is solely in Davidson County, Tennessee;

4. As required by the Assurance and this Order, Respondent shall pay the multistate group the total sum of Nine Million Five Hundred Thousand Dollars (\$9,500,000.00), of which Two Hundred Eleven Thousand Eight Hundred Ninety-Four and 81/100 Dollars (\$217,129.89) shall be distributed to the State of Tennessee. As approved by this Court, the State of Tennessee has determined to use this payment for the purposes set forth as follows:

- (A) The sum of One Hundred Eighty-Seven Thousand One Hundred Twenty-Nine and 89/100 Dollars (\$187,129.89) shall be paid to Cover Rx, a subsidiary of the Cover Tennessee program, to be used in conformity with the terms of this Order to expand Cover Rx to provide subsidized coverage for anti-smoking medications and other needed prescription drugs at the sole discretion of the Cover Tennessee Director.
- (B) The sum of Fifteen Thousand Two Hundred Fifty-Four and 51/100 Dollars (\$15,254.51) shall be paid to the Attorney General of the State of Tennessee for attorneys' fees and costs of investigation, prosecution and monitoring for compliance of this matter, which may be used for consumer protection purposes or other lawful purposes at the sole discretion of the Attorney General.
- (C) The sum of Nine Thousand Seven Hundred Forty-Five and 49/100 Dollars (\$9,745.49) shall be paid to the Attorney General of the State of Tennessee to reimburse the Attorney General for expert fees previously paid, which may be used for consumer protection purposes or other lawful purposes at the sole discretion of the Attorney General.
- (D) The sum of Five Thousand Dollars (\$5,000.00) shall be paid to the State of Tennessee - General Fund.

If the entire monetary amount anticipated by the State of Tennessee is not received, any monies received shall first be attributed to reimbursement of expert fees pursuant to paragraph 4(C), attorneys' fees pursuant to paragraph 4(B), next to the payment to the general fund pursuant to paragraph 4(D) and finally to Cover Rx pursuant to paragraph 4(A). In the event, the State of Tennessee receives additional monies, those funds shall be used pursuant to paragraph 4(B). Alternately, any other or additional sums received by the State of Tennessee shall be paid to the

State of Tennessee, Attorney General which may be used for consumer protection purposes or other lawful purposes at the sole discretion of the Attorney General;

5. Pursuant to Tenn. Code Ann. § 47-18-107(c), any subsequent failure to comply with the terms hereof is *prima facie* evidence of a violation of the Tennessee Consumer Protection Act. Further, pursuant to Tenn. Code Ann. § 47-18-107(f), any knowing violation of the terms of this Assurance shall be punishable by civil penalties of not more than One Thousand Dollars (\$1,000.00) recoverable by the state for each violation, in addition to any other appropriate penalties and sanctions;

6. Pursuant to Tenn. Code Ann. § 47-18-107(c), an Assurance of Voluntary Compliance shall not be considered an admission of prior violation of the Tennessee Consumer Protection Act;

7. Pursuant to Tenn. Code Ann. § 47-18-107(e), nothing in the Assurance shall be construed as a waiver of any private rights of any consumer/person;

8. Within thirty (30) days of submitting the report due pursuant to Section III.A.2(e) under the Assurance, Respondent agrees to provide the Attorney General with a report of the total number of Tennesseans who received reimbursements and total amount of reimbursements received under this Order and Assurance of Voluntary Compliance;

9. This Order and the Assurance shall only be enforceable by the parties to this action;

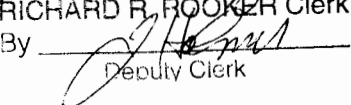
10. Respondent waives any and all rights which it may have to be heard in connection with judicial proceedings upon the Petition;

11. Nothing in the Assurance or Agreed Order shall be construed to waive any claims of Sovereign Immunity the State may have in any action or proceeding; and

12. Pursuant to Tenn. Code Ann. § 47-18-116, all costs associated with the filing and distribution of this Order, Assurance and Petition and any other incidental costs or expenses incurred thereby shall be borne by Respondent. No costs shall be taxed against the State as provided by Tenn. Code Ann. § 47-18-116. Costs shall be taxed to Respondent.

IT IS SO ORDERED.

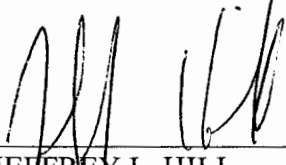

JUDGE

I hereby certify that this is a true copy
of original instrument filed in my office
this 29th day of May 2008
RICHARD R. ROOKER Clerk
By  Deputy Clerk

JOINTLY APPROVED AND
SUBMITTED FOR ENTRY:

FOR THE ATTORNEY GENERAL OF
THE STATE OF TENNESSEE:

ROBERT E. COOPER, JR.
Attorney General & Reporter
B.P.R. No. 10934

A handwritten signature in black ink, appearing to read 'Jeffrey L. Hill', is written over a horizontal line.

JEFFREY L. HILL
Senior Counsel
B.P.R. No. 16731
Office of the Tennessee Attorney General
Consumer Advocate and Protection Division
Post Office Box 20207
Nashville, Tennessee 37202-0207
Telephone: (615) 741-3108
Facsimile: (615) 532-2910

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FOR RESPONDENT EXPRESS SCRIPTS, INC.:

A handwritten signature in black ink, appearing to read "J.S. Norwood", is written over a horizontal line.

Jeffrey S. Norwood

Counsel for Respondent

B.P.R. No. 011088

Husch Blackwell Sanders LLP

736 Georgia Avenue, Suite 300

Chattanooga, TN 37402

Phone: 423-755-2684

Fax: 423-266-5499